



SBA Policy Notice

TO: All SBA Employees

CONTROL NO.: 6000-742

SUBJECT: *Guidelines For Implementing and
Publicizing The Veterans
Entrepreneurship and Small Business
Development Act Of 1999*

EFFECTIVE: 9/23/99

On August 16, 1999, President Clinton signed into law the "Veterans Entrepreneurship and Small Business Development Act of 1999," (Veterans Act) Public Law 106-50. This notice addresses two specific areas, as required by the Veterans Act, and provides some preliminary guidelines about SBA's implementation of the various provisions.

The purposes of the Veterans Act are to provide additional technical, financial, and procurement assistance to veteran owned small businesses, to expand existing assistance programs and to establish new ones for veterans who own or operate small businesses.

More specifically, the Veterans Act:

- expands the eligibility for certain small business assistance programs to veterans,
- directs certain departments and agencies to take actions that enhance small business assistance to veterans, and
- establishes new institutions to provide small business assistance to veterans.

There are two sets of guidelines in this Notice. They address the following areas:

- enhancing business development and management assistance for military reservists' small businesses; and
- providing financial assistance to active duty military reservists.

For more information on the Veterans Entrepreneurship and Small Business Development Act of 1999, or if you have questions on resources available for Veterans at SBA, contact SBA's Office of Veteran's Affairs at 202-205-6773 or visit the SBA Veteran's Homepage at: www.sba.gov/vets

EXPIRES: 9/1/2000

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SBA Form 1353.1 (4-93) MS Word Edition; previous editions obsolete
Must be accompanied by SBA Form 58

I. DEFINITIONS: Terms Used in the Veterans Act

Veteran means a person who served in the active military, naval, or air service, and who was honorably discharged.

Service-Disabled Veteran is a veteran with a disability that is service-connected.

Service-Connected means that a disability or the resulting death was incurred or aggravated in the line of duty in the active military, naval, or air service.

Military/Eligible Reservist means a member of a reserve component of the Armed Forces ordered to active duty during a period of military conflict.

Period of Military Conflict means a period of war or national emergency declared by the Congress or the President, or a period of a contingency operation.

Period of Contingency Operation means a military operation that:

- (A) was designated by the Secretary of Defense as an operation which involves members of the armed forces in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or
- (B) results in the order to, or retention on, active duty of members of the uniformed services under [688](#), [12301\(a\)](#), [12302](#), [12304](#), [12305](#), or [12406](#) of title 10, chapter 15, or any other provision of law during a war or during a national emergency declared by the President or Congress.

Essential Employee means an individual who is employed by a small business concern and whose managerial or technical expertise is critical to the successful day-to-day operations of the small business concern.

Qualified Borrower means:

- an individual who is an eligible reservist and who has an outstanding direct 7(a) loan or a 7(b) disaster assistance loan which he or she received before being ordered to active duty; or
- a small business that has an outstanding direct 7(a) loan or a 7(b) disaster assistance loan which he or she received before becoming an eligible reservist, who is an essential employee and who has been ordered to active duty.

Small Business Owned and Controlled by a Service-Disabled Veteran means a small business:

- (A) that is not less than 51-percent-owned by one or more service-disabled veterans or, in the case of any publicly owned business that is not less than 51 percent is owned by one or more service-disabled veterans; and

- (B) whose management and daily business operations are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

Small Business Owned and Controlled by a Veteran means a small business:

- (A) that is not less than 51-percent-owned by one or more veterans or, in the case of any publicly owned business, not less than 51 percent of the stock is owned by one or more veterans; and
- (B) whose management and daily business operations of which are controlled by one or more veterans.

II. Enhancing Business Development and Management Assistance for Military Reservists' Small Businesses.

REQUIREMENT IN THE VETERANS ACT:

Section 303 of the Veterans Act requires SBA to issue guidelines on:

- how SBA will use its current programs to counsel and train small businesses adversely affected by the deployment of U.S. Armed Forces during military conflict; and
- how SBA will publicize current counseling and training resources and make them available to affected small businesses.

QUESTIONS & ANSWERS:

How will SBA use current resources to counsel and train Military Reservists in small business development?

SBA will enter into partnership agreements with its resource partners to provide counseling and training to Military Reservists and will:

- (a) Work with private sector partners, the Small Business Development Centers (SBDCs), Women's Business Centers (WBCs), Service Corp of Retired Executives (SCORE), and other SBA resources to address veteran-specific issues in small business development;
- (b) Publicize the availability of these resources locally to veteran's groups and other interested parties; and
- (c) Use the SBA website to deliver online small business development courses targeting veteran home-based and other small business enterprises.

How will SBA enhance publicity of its current counseling and training resources during Operation Allied Force (the Kosovo Conflict) and 120 days after?

SBA will enhance publicity of its current counseling and training resources during Operation Allied Force and 120 days after by:

- (a) Working with the Department of Defense (DOD) to identify and contact all veterans, service-disabled veterans and reservists deployed in military commitment;
- (b) Use mailings and other traditional forms of outreach to inform veterans and service-disabled veterans and reservists deployed in military commitment about available resources; and
- (c) Use the SBA website and email lists, where possible, to contact and publicize counseling and training opportunities available at SBA for veterans.

As a veteran entrepreneur, what SBA services are available to me under the Veterans Act? Who should small businesses contact for more information?

A variety of resources are available to veteran small business owners throughout the country and in every state. Please contact the Veteran's Affairs Officer at the local SBA district office.

For a listing of the office in a particular location, call 1-800-U-ASK-SBA (1-800-827-5722) or look on SBA's Veterans' Affairs webpage at www.sba.gov/vets.

III. Providing Financial Assistance to Active Duty Military Reservists

REQUIREMENT IN THE VETERANS ACT:

Section 402 of the Veterans Act requires SBA to issue guidelines on:

- how SBA will provide relief to Active Duty Military Reservists relating to direct loans;
- how SBA will encourage intermediaries to provide relief to Active Duty Military Reservists relating to loan guarantees;
- how SBA will develop a program to provide relief to intermediaries assisting Active Duty Military Reservists; and
- how SBA will provide Economic Injury Disaster Loans to Active Duty Military Reservists.

QUESTIONS & ANSWERS:

This section includes:

- (A) Guidelines for Providing General Assistance to Active Duty Military Reservists; and
- (B) Guidelines for Providing Disaster Assistance to Active Duty Military Reservists.

A. Guidelines for Providing General Assistance to Active Duty Military Reservists.

What does the Veterans Act require SBA to do regarding relief on direct loans made to an eligible reservist or an eligible small business concern?

The Veterans Act requires that, upon written request, SBA will:

- 1) Defer repayment of principal and interest due on any direct 7(a) loan to an eligible reservist or qualified borrower;
- 2) Begin the deferral period on the date the eligible reservist is ordered to active duty and end the deferral period on the date 180 days after the date the eligible reservist is discharged or released from active duty; and
- 3) At its discretion, reduce the interest rate on any loan qualifying for deferral under the Veterans Act.

What does the Veterans Act require SBA to do for Microloan Intermediaries and SBA Guaranty Lenders?

The Veterans Act requires that SBA encourage:

- 1) Microloan intermediaries [7(m) lenders] to defer repayment of loans incurred by a small business concern, if that concern is eligible to apply for assistance under subsection §7(b)(3) of the Small Business Act regarding economic injury disaster assistance, as modified by the Veterans Act;
- 2) 7(a) and 504 lenders to defer repayment of, or provide other relief, on loans made to small business concerns eligible to apply for assistance §7(b)(3) of the Small Business Act regarding economic injury disaster assistance loans, as modified by the Veterans Act; and
- 3) Lenders which provide loan guaranties to microloan intermediaries to defer repayment or provide other relief if the intermediary provides relief to the small business concern under the Veterans Act.

Does the Veterans Act require any changes to the microloan program?

Yes. The Veterans Act requires that the word "veteran" be inserted into §7(m)(1)(A)(i) of the [Small Business Act](#) after the phrase "low-income."

Does the Veterans Act require any other changes to the 7(a) Program?

Yes. The Veterans Act requires that the phrase "or a veteran" be inserted into §7(a)(21)(A)(ii) of the [Small Business Act](#) after "qualified individual." This was done to emphasize that veterans, as defined by the new Veterans Act, are specifically included as eligible for defense economic transition loans. (Funding for defense economic transition loans is not currently available).

What changes does the Veterans Act impose on SBA's Certified Development Company (CDC) loan (504) program?

The Veterans Act expands the eligibility of SBA's Certified Development Company (CDC) loan (504) program to include veterans and service disabled veteran businesses as one of the program's public policy goals.

Aren't reservists currently eligible for relief under the Soldiers' and Sailors' Civil Relief Act of 1940?

Yes, to some extent. Under the 1940 Act, unless a court rules otherwise, there can be no sale, foreclosure, or seizure of property for nonpayment of any obligation incurred before a call to active duty for 3 months after the person leaves active military service. This suspension of certain civil liabilities for a person called to military service enabled such persons to devote their entire energy to the defense needs of the Nation. These provisions apply to individuals and sole proprietors with SBA direct or guarantee loans incurred before their active duty call up.

In addition, the interest rate on an obligation incurred by a person called to active military service cannot exceed 6 percent. Please see Public Law 106-50 for more information.

B. Guidelines for Providing Disaster Assistance to Active Duty Military Reservists.

The SBA Office of Disaster Assistance will further describe the Military Reservist Economic Injury Disaster Loan (EIDL) program in proposed regulations within the next 60 days. The effective date for this loan program is tentatively set for January 3, 2000.

What businesses are eligible to apply for a Military Reservist Economic Injury Disaster Loan (EIDL)?

A Small Business is eligible to apply for a military reservist EIDL if it meets the following requirements:

- (1) the small business employs a military reservist who is called up for "active duty" and the military reservist is an "essential employee" with managerial or technical expertise critical to the success of that small business' daily operations;
- (2) the essential employee, whether the employee, owner or non-owner, is called up for active duty service for a period of military conflict; and

- (3) a small business has suffered or is likely to suffer substantial economic injury as a result of the essential employee being called up for “active duty” during the period the employee was serving in the military conflict.

For this purpose, **substantial economic injury** means that, as a result of the call up of the “essential employee,” the business, together with its affiliates and principal owners (20 percent or more ownership interest) cannot:

- meet its obligations as they mature,
- pay its ordinary and necessary operating expenses, and
- market, produce or provide a product or service ordinarily marketed, produced or provided by the business concern.

Loss of anticipated profits or a drop in sales is not considered substantial economic injury for this purpose.

When would a small business not be eligible to apply for a EIDL?

A small business is not eligible for a Military Reservist EIDL if, together with its affiliates, it fits into any of the categories described in 13 CFR §§ [123.101](#), [123.201](#), and [123.301](#).

What is the interest rate on a Military Reservist EIDL?

The interest rate on a Military Reservist EIDL cannot exceed 4 percent, as required by §7(c)(5)(C) of the [Small Business Act](#).

When may a small business apply for a Military Reservist EIDL?

A small business is eligible to apply for assistance during a period beginning on the date an essential employee is ordered to active duty and ending on the date 90 days after the date the essential employee is discharged or released from active duty.

This program applies to economic injuries suffered or likely to be suffered as a result of a period of military conflict occurring or ending on or after March 24, 1999.

How can a small business apply for a Military Reservist EIDL?

To apply, a small business must complete an SBA military reservist EIDL loan application package (SBA form 5R, will be available from SBA soon) which includes, among other things:

- (1) a copy of the essential employee’s “orders” for active duty (showing the date of call up and date released from active duty);
- (2) a self-certification from the business owner that the reservist is essential to the successful day-to-day operations of your business (detailing the employee’s duties and responsibilities) along with a concurrence by the essential employee; and

- (3) a written explanation and estimate of how you determined that the essential employee being called up for active duty resulted in economic injury to the business.

How much can a small business borrow and how can the Military Reservist EIDL funds be used?

A small business is eligible to borrow the amount needed to pay its ordinary and necessary expenses, pay obligations as they mature and enable it to market, produce and provide its normal products and services. This amount must not exceed what the business, together with its affiliates and principal owners (20 percent or more ownership interest), could have provided without undue hardship had the injury not occurred.

A small business can only use the loan proceeds for working capital necessary to carry the business until normal operations resume and for expenditures necessary to alleviate the specific economic injury. This amount must not exceed what the business could have provided had the injury not occurred. Loan proceeds may be used to:

- meet obligations as they mature,
- pay ordinary and necessary operating expenses or marketing and production costs, or
- provide products or services ordinarily marketed, produced, or provided by your business, which cannot be done as a result of the essential employee's military orders.

SBA will disburse funds serially, generally in quarterly installments based on comparative financial information, and in general accord with the provisions of the loan authorizing agreement.

The affected small business may only use loan proceeds as described in described in [13 CFR §123.303](#), and in accord with the specific loan authorizing agreement.

Aida Alvarez
Adminisrator

APPENDIX

EXCERPTS FROM:

The Veteran's Entrepreneurship and Small Business Development Act of 1999 (P.L. 106-50):

SEC. 303. BUSINESS DEVELOPMENT AND MANAGEMENT ASSISTANCE FOR MILITARY RESERVISTS' SMALL BUSINESSES.

(a) *IN GENERAL*- Section 8 of the Small Business Act (15 U.S.C. 637) is amended by adding at the end the following:

(1) *MANAGEMENT ASSISTANCE FOR SMALL BUSINESSES AFFECTED BY MILITARY OPERATIONS*- The Administration shall utilize, as appropriate, its entrepreneurial development and management assistance programs, including programs involving State or private sector partners, to provide business counseling and training to any small business concern adversely affected by the deployment of units of the Armed Forces of the United States in support of a period of military conflict (as defined in section 7(n)(1)).

(b) *ENHANCED PUBLICITY DURING OPERATION ALLIED FORCE*- For the duration of Operation Allied Force and for 120 days thereafter, the Administration shall enhance its publicity of the availability of assistance provided pursuant to the amendment made by this section, including information regarding the appropriate local office at which affected small businesses may seek such assistance.

(c) *GUIDELINES*- Not later than 30 days after the date of the enactment of this section, the Administrator of the Small Business Administration shall issue such guidelines as the Administrator determines to be necessary to carry out this section and the amendment made by this section.

SEC. 402. ASSISTANCE TO ACTIVE DUTY MILITARY RESERVISTS.

(a) *REPAYMENT DEFERRAL FOR ACTIVE DUTY RESERVISTS*- Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end the following:

(n) *REPAYMENT DEFERRED FOR ACTIVE DUTY RESERVISTS*-

(1) *DEFINITIONS*- In this subsection:

(A) *ELIGIBLE RESERVIST*- The term 'eligible reservist' means a member of a reserve component of the Armed Forces ordered to active duty during a period of military conflict.

(B) *ESSENTIAL EMPLOYEE*- The term 'essential employee' means an individual who is employed by a small business concern and whose managerial or technical expertise is critical to the successful day-to-day operations of that small business concern.

(C) *PERIOD OF MILITARY CONFLICT*- The term 'period of military conflict' means--

(i) a period of war declared by the Congress;

(ii) a period of national emergency declared by the Congress or by the President; or

(iii) a period of a contingency operation, as defined in section 101(a) of title 10, United States Code.

(D) *QUALIFIED BORROWER*- The term 'qualified borrower' means--

(i) an individual who is an eligible reservist and who received a direct loan under subsection (a) or (b) before being ordered to active duty; or

(ii) a small business concern that received a direct loan under subsection (a) or (b) before an eligible reservist, who is an essential employee, was ordered to active duty.

(2) *DEFERRAL OF DIRECT LOANS*-

(A) *IN GENERAL*- The Administration shall, upon written request, defer repayment of principal and interest due on a direct loan made under subsection (a) or (b), if such loan was incurred by a qualified borrower.

`(B) PERIOD OF DEFERRAL- The period of deferral for repayment under this paragraph shall begin on the date on which the eligible reservist is ordered to active duty and shall terminate on the date that is 180 days after the date such eligible reservist is discharged or released from active duty.

`(C) INTEREST RATE REDUCTION DURING DEFERRAL- Notwithstanding any other provision of law, during the period of deferral described in subparagraph (B), the Administration may, in its discretion, reduce the interest rate on any loan qualifying for a deferral under this paragraph.

`(3) DEFERRAL OF LOAN GUARANTEES AND OTHER FINANCINGS- The Administration shall--

`(A) encourage intermediaries participating in the program under subsection (m) to defer repayment of a loan made with proceeds made available under that subsection, if such loan was incurred by a small business concern that is eligible to apply for assistance under subsection (b)(3); and

`(B) not later than 30 days after the date of the enactment of this subsection, establish guidelines to--

`(i) encourage lenders and other intermediaries to defer repayment of, or provide other relief relating to, loan guarantees under subsection (a) and financings under section 504 of the Small Business Investment Act of 1958 that were incurred by small business concerns that are eligible to apply for assistance under subsection (b)(3), and loan guarantees provided under subsection (m) if the intermediary provides relief to a small business concern under this paragraph; and

`(ii) implement a program to provide for the deferral of repayment or other relief to any intermediary providing relief to a small business borrower under this paragraph.'

(b) DISASTER LOAN ASSISTANCE FOR MILITARY RESERVISTS' SMALL BUSINESSES- Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after the undesignated paragraph that begins with 'Provided, That no loan', the following:

`(3)(A) In this paragraph--

`(i) the term 'essential employee' means an individual who is employed by a small business concern and whose managerial or technical expertise is critical to the successful day-to-day operations of that small business concern;

`(ii) the term 'period of military conflict' has the meaning given the term in subsection (n)(1); and

`(iii) the term 'substantial economic injury' means an economic harm to a business concern that results in the inability of the business concern--

`(I) to meet its obligations as they mature;

`(II) to pay its ordinary and necessary operating expenses; or

`(III) to market, produce, or provide a product or service ordinarily marketed, produced, or provided by the business concern.

`(B) The Administration may make such disaster loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) to assist a small business concern that has suffered or that is likely to suffer substantial economic injury as the result of an essential employee of such small business concern being ordered to active military duty during a period of military conflict.

`(C) A small business concern described in subparagraph (B) shall be eligible to apply for assistance under this paragraph during the period beginning on the date on which the essential employee is ordered to active duty and ending on the date that is 90 days after the date on which such essential employee is discharged or released from active duty.

`(D) Any loan or guarantee extended pursuant to this paragraph shall be made at the same interest rate as economic injury loans under paragraph (2).

`(E) No loan may be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed \$1,500,000, unless such applicant constitutes a major source of employment in its surrounding area, as determined

by the Administration, in which case the Administration, in its discretion, may waive the \$1,500,000 limitation.

“(F) For purposes of assistance under this paragraph, no declaration of a disaster area shall be required.”.

(c) ENHANCED PUBLICITY DURING OPERATION ALLIED FORCE- For the duration of Operation Allied Force and for 120 days thereafter, the Administration shall enhance its publicity of the availability of assistance provided pursuant to the amendments made by this section, including information regarding the appropriate local office at which affected small businesses may seek such assistance.

(d) GUIDELINES- Not later than 30 days after the date of the enactment of this section, the Administrator of the Small Business Administration shall issue such guidelines as the Administrator determines to be necessary to carry out this section and the amendments made by this section.

(e) EFFECTIVE DATES-

(1) IN GENERAL- Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this section.

(2) DISASTER LOANS- The amendments made by subsection (b) shall apply to economic injury suffered or likely to be suffered as the result of a period of military conflict occurring or ending on or after March 24, 1999.